

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 1-12-04.

The IRO reviewed office visits, joint mobilization, unlisted vascular study, muscle testing, range of motion testing, physical performance test, myofascial release, and neuromuscular re-education rendered from 1-23-03 through 6-27-03 that were denied based upon “U” and “V”.

The IRO concluded that physical performance test conducted on 3-11-03 was medically necessary. The IRO concluded that all other services rendered were not medically necessary.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(r)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

On this basis, the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On March 18, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

No EOB: Neither party in the dispute submitted EOBs for some of the disputed services identified above. Since the insurance carrier did not raise the issue in their response that they had not had the opportunity to audit these bills and did not submit copies of the EOBs, the Medical Review Division will review these services per *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
1-30-03 3-13-03 4-19-03	99080-73	\$15.00	\$0.00	F	\$15.00	Rule 129.5(d)	The MAR of \$15.00 X 3 = \$45.00 is recommended.
4-24-03	99215	\$105.00	\$0.00	No EOB	\$103.00	Evaluation & Management GR (VI)	The MAR of \$103.00 is recommended.
5-15-03	99080-73	\$15.00	\$0.00	No EOB	\$15.00	Rule 129.5(d)	The MAR of \$15.00 is recommended.
5-15-03	99213	\$50.00	\$0.00	No EOB	\$48.00	Evaluation & Management GR (VI)	The MAR of \$48.00 is recommended.
5-15-03	97122	\$28.00	\$0.00	No EOB	\$28.00	CPT Code Descriptor	The MAR of \$22.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of <b>\$233.00.</b>

This Decision is hereby issued this 7<sup>th</sup> day of September 2004

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

#### **ORDER.**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 1-23-03 through 6-27-03 in this dispute.

This Order is hereby issued this 7<sup>th</sup> day of September 2004.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

#### **NOTICE OF INDEPENDENT REVIEW DECISION**

**Date:** March 16, 2004

**MDR Tracking #:** M5-04-1395-01  
**IRO Certificate #:** 5242

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### **Clinical History**

This case involves a claimant who was injured while on-the-job on \_\_\_. Allegedly, the claimant was driving a truck that struck an embankment causing sprain/strain type injuries to his neck and left shoulder. The claimant underwent CT scans of the neck and left shoulder, which were apparently negative. EMG/NCV studies of the upper and lower extremities were also performed with apparently negative results. The claimant was off work and under chiropractic care from 06/06/02 through at least 06/27/03.

### **Requested Service(s)**

Please review and address the medical necessity of office visits, joint mobilization, unlisted vascular studies, muscle testing, range of motion measurements, physical performance test, myofascial release, and neuromuscular re-education rendered to the claimant from 01/23/2003 through 06/27/2003.

### **Decision**

Based on the information contained within the submitted documentation and current, accepted standards of physiotherapeutic care, the physical performance test conducted on 03/11/03 was medically necessary. The office visits, joint mobilization, unlisted vascular study, muscle testing, range of motion measurements, myofascial release, and neuromuscular re-education rendered to the claimant from 01/23/2003 through 06/27/2003 were not medically necessary.

### **Rationale/Basis for Decision**

Office visits - The documentation does not support that this level of evaluation/management occurred on the dates of service in question. Also, given the history of the injury and the initial diagnoses, there is no justification in the submitted documentation for this level of service 7 to 12 months post-injury.

Joint mobilization - This service is typically performed to improve articular mobility. This service is not usually performed beyond 8 weeks post-injury without objective reasoning for continuation (i.e. steadily improving range of motion). The documentation offers no objective or subjective justification for continuation of this service 7 to 12 months post-injury.

Unlisted vascular study - The documentation does not support evidence of any questionable or definite vascular compromise related to the compensable work injury. Therefore, no vascular study was necessary at any point during the claimant's care.

Muscle testing - This service is typically performed as part of a Functional Capacity Evaluation. There is no information in the submitted documentation to justify this separate service on the same date that a FCE was performed.

Range of motion measurements - This service is typically performed as part of a Functional Capacity Evaluation. The documentation contains no information that justifies this service being performed on the same date as a FCE.

Physical performance test - This service was medically necessary in gaining objective information to evaluate the claimant's ability to return to work.

Myofascial release - Myofascial release is used to break up myofascial adhesions and is typically not used for more than 8 weeks post-injury. The documentation does not justify the use of this service 7 to 12 months post-injury.

Neuromuscular re-education - The documentation does not contain objective information that supports the need for this service 7 to 12 months post-injury.

Given the negative diagnostic studies for objective injury, with the exception of the Physical Performance testing on 3/11/03, the claimant's only rehabilitation, during the dates at issue, should have been a self-directed home exercise program.